



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/574,011 | 08/01/2006 | Werner Steprath | 127536 | 4346 |
| 25944 | 7590 | 09/28/2009 | EXAMINER | |
| OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850 | | | | JOYCE, WILLIAM C |
| ART UNIT | | PAPER NUMBER | | |
| 3656 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 09/28/2009 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/574,011 | STEPRATH ET AL. |
| | Examiner | Art Unit |
| | William C. Joyce | 3656 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on _____.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-9 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
 5) Claim(s) ____ is/are allowed.
 6) Claim(s) 1-9 is/are rejected.
 7) Claim(s) ____ is/are objected to.
 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
 5) Notice of Informal Patent Application
 6) Other: _____.

DETAILED ACTION

This is the First Office Action in response to the above identified patent application filed on August 1, 2006.

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because implied phrase "There is disclosed" (line 1) must be deleted. Correction is required. See MPEP § 608.01(b).

4. The disclosure is objected to because of the following informalities: Each section of the specification must have a heading (i.e. "Brief Summary of the Invention", "Brief

Description of the Drawings", and "Detailed Description of the Invention"). Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. On line 2 of claim 1, the addition of the word "type" to an otherwise definite expression extends the scope of the expression so as to render it indefinite. *Ex parte Copenhaver*, 109 USPQ 118 (Bd. App. 1955).
- b. Claim 4, last line, the limitation "or the like" is not fully understood.
- c. Claim 6, last line, the limitation "the same" is not fully understood.
- d. Claim 8, the limitation "the end faces" lack proper antecedent basis.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Olmsted et al. (USP 5,313,853).

Referring to Figure 3, Olmsted et al. discloses a manually operated electric control device comprising a housing (34) on which a control lever (16) is mounted by means of a pivotable joint having two axes which can be pivoted in relation to each other, wherein the position of the control lever can be detected by a sensing technology for generating a control signal and wherein a first pivot axis is formed by two bearing tappets (56,58) operatively connected to the control lever, characterized in that the bearing tappets immerse in respective bearing sections (60) which are guided with their external surfaces in a bearing bush (44,46) so that a second pivot axis is formed, each bearing section includes a cylinder section having a plane bearing surface adapted to be adjacent to end faces of the control lever and a convexly curved external cylinder surface adapted to be adjacent to a correspondingly designed concavely curved internal cylinder surface of the beating bush having the form of a cylinder bush, the cylinder bush includes two bush members connected to each other by a bridge, wherein in a neutral position of the control lever the cylinder bushes extend beyond the cylinder sections in the direction of the longitudinal axis of the control lever, wherein the axial length of the cylinder sections and of the cylinder bush is equal and are supported in a housing seat.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olmsted et al. (USP 5,313,853) in view of Reinecke (USP 4,519,266).

Olmsted et al. does not disclose a recess formed in the lever for a magnet. The prior art to Reinecke disclose a control lever arrangement having a magnet (6) disposed in a recess. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lever device of Olmstead et al. with a recess for a positioning magnet, as taught by Reinecke, motivation being to provide means for determining a position of the lever.

With respect to claim 8, Olmstead et al. does not teach the lever having an approximately rectangular base on which the end faces associated with bearing surfaces are formed. However, forming the base portion of the lever disclosed by Olmstead et al. with an approximately rectangular shape is considered an engineering design choice, and does not appear to provide a significant improvement with respect to the prior art device. Alternatively, it would have been within the skill of one in the art to modify the lever portion supporting the

tappets of Olmstead et al. with a rectangular shape, motivation being to facilitate in making and/or assembling the device.

With respect to claim 9, Olmstead does not disclose the components of the pivotable joint and the control lever being manufactured of non-magnetizable material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the lever device from, for example, plastic, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the lever device of USP 4,569,245).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Joyce whose telephone number is (571) 272-7107. The examiner can normally be reached on Monday - Thursday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William C. Joyce/
Primary Examiner, Art Unit 3656